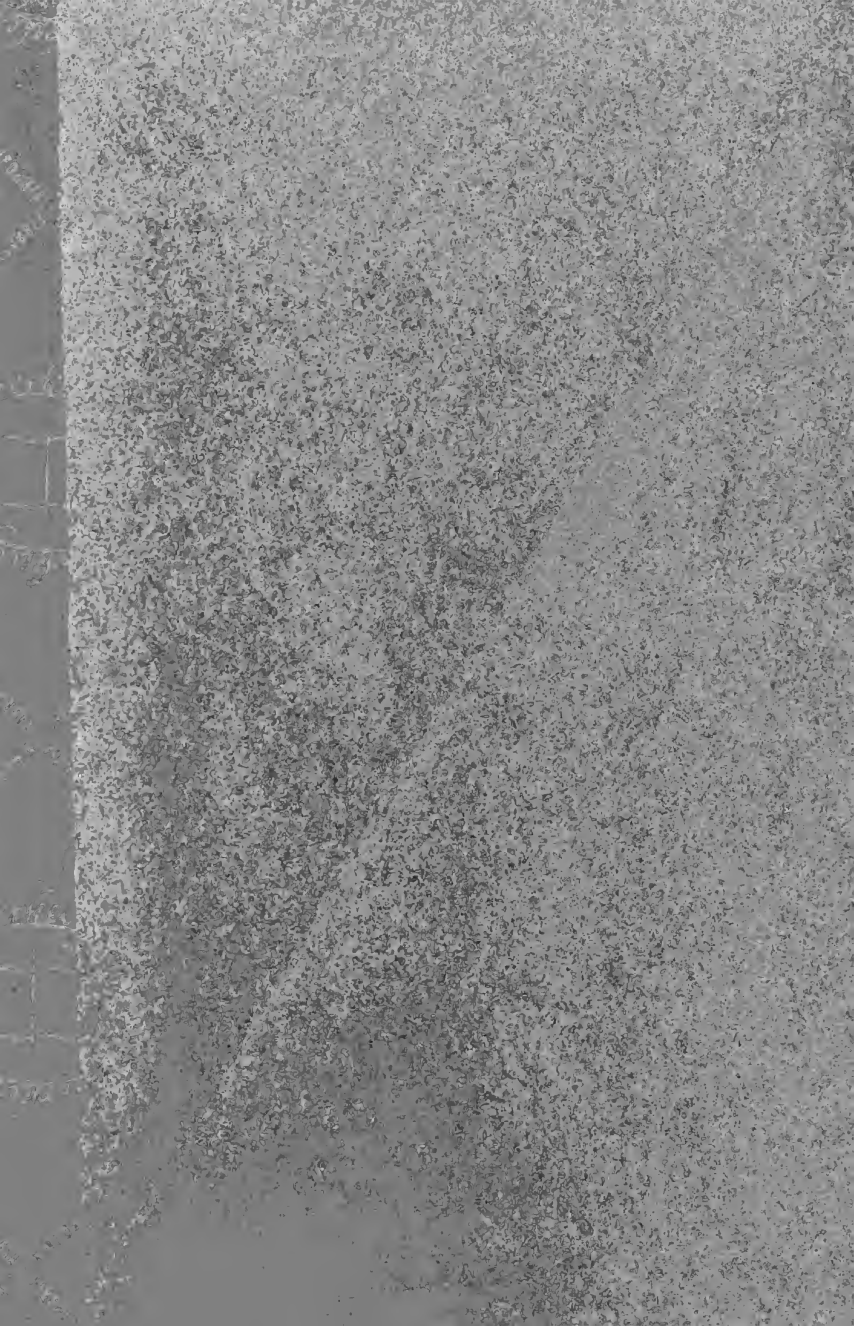

# MILESTONES OF HALF A CENTURY

## What Presidents and Congress have done to bring about a League of Nations

While the friends of peace and the advocates of international organization were trying to persuade the American people that it would be the duty of the country, after the war, to enter a League of Nations to insure peace and justice throughout the world, the President and Congress of the United States suddenly cut the discussion short by announcing that it was the duty of the nation to enter such a league during the war, and fight to realize these ideals. In the words of the Secretary of War—"Our Combined armies from now on will represent a League of Nations to enforce peace with justice."

The inexorable logic of events had moved faster even than the logic of the propagandists. They got more than they asked for sooner than they expected it. Not a few critics looked upon this enthusiasm for a league of nations to insure peace and justice throughout the world as an abrupt change of national policy. It seems worth while, therefore, to follow the successive steps by which, during half a century, the President and Congress of the United States have steadily advanced toward the position they now hold.

### GRANT AND THE *ALABAMA* SETTLEMENT, 1871.

The arbitration of the *Alabama* claims, resulting in an award of damages of $15,500,000 to the United States and removing acute causes of unfriendliness between two great nations, one of which had just won a great war, created a tremendous impression throughout the world.

President Grant accurately reflected the thought of the time when he wrote in his third annual message of December 4, 1871:

The year has been an eventful one in witnessing two great nations, speaking one language and having one lineage, settling by peaceful arbitration disputes of long standing and liable at any time to bring those nations into bloody and costly conflict. An example has thus been set which, if successful in its final issue, may be followed by other civilized nations, and finally be the means of returning to productive industry millions of men now maintained to settle the disputes of nations by the bayonet and the broadside.[1]

## THE SUMNER RESOLUTIONS, 1872–1874.

The general enthusiasm for the newly demonstrated method of pacific settlement found expression in many popular memorials to Congress. These found a champion in Senator Charles Sumner of Massachusetts. In May, 1872, he sought Congressional approval for the establishment of an international tribunal before which "any question or agreement which might be the occasion of war or of misunderstanding between nations could be considered"; a tribunal whose true character should be such "that its authority and completeness as a substitute for war may not be impaired, but strengthened and upheld, to the end that civilization may be advanced and war be limited in its sphere." The senator apparently contemplated a tribunal invested with sanctions. For two years this resolution was pending before Congress.

The Sumner resolution was introduced in the Senate May 31, 1872, and so aptly reflected the prevailing feeling among those then concerned with improving international relations that it is quoted in full:

### Resolutions concerning Arbitration as a Substitute for War in determining Differences Between Nations.

*Whereas*, by international law and existing custom war is recognized as a form of trial for the determination of differences between nations; and

*Whereas*, for generations good men have protested against the irrational character of this arbitrament, where force instead of justice prevails, and have anxiously sought for a substitute in the nature of a judicial tribunal, all of which was expressed by Franklin in his exclamation: "when will mankind be convinced that all wars are follies, very expensive and very mischievous, and agree to settle their differences by arbitration?" and

[1] Richardson, *Messages and Papers of the Presidents*, 4097.

*Whereas*, war once prevailed in the determination of differences between individuals, between cities, between counties, and between provinces, being recognized in all these cases as the arbiter of justice, but at last yielded to a judicial tribunal, and now, in the progress of civilization, the time has come for the extension of this humane principle to nations, so that their differences may be taken from the arbitrament of war, and, in conformity with these examples, submitted to a judicial tribunal; and

*Whereas*, arbitration has been formally recognized as a substitute for war in the determination of differences between nations, being especially recommended by the Congress of Paris, where were assembled the representatives of England, France, Russia, Prussia, Austria, Sardinia, and Turkey, and afterward adopted by the United States in formal treaty with Great Britain for the determination of differences arising from depredations of British cruisers, and also from opposing claims with regard to the San Juan boundary; and

*Whereas*, it becomes important to consider and settle the true character of this beneficent tribunal, thus commended and adopted, so that its authority and completeness as a substitute for war may not be impaired, but strengthened and upheld, to the end that civilization may be advanced and war be limited in its sphere: Therefore,

1. *Resolved*, That in the determination of international differences arbitration should become a substitute for war in reality as in name, and, therefore, co-extensive with war in jurisdiction, so that any question or grievance which might be the occasion of war or of misunderstanding between nations should be considered by this tribunal.

2. *Resolved*, That any withdrawal from a treaty recognizing arbitration, or any refusal to abide the judgment of the accepted tribunal, or any interposition of technicalities to limit the proceedings, is to this extent a disparagement of the tribunal as a substitute for war, and therefore hostile to civilization.

3. *Resolved*, That the United States having at heart the cause of peace everywhere, and hoping to help its permanent establishment between nations, hereby recommend the adoption of arbitration as a just and practical method for the determination of international differences, to be maintained sincerely and in good faith, so that war may cease to be regarded as a proper form of trial between nations.[1]

The resolution was acted upon in 1874, when Sumner was no longer alive. On June 9, 1874, Senator Hamlin of Maine presented a report and resolution from the Committee on Foreign Relations, the resolution being considered and agreed to without debate on June 23. This report reads:[2]

[1] *Cong. Globe*, 42nd Cong., 2nd Sess., Part V, 4106–7. The resolution was also introduced on December 1, 1873, without the second resolve, *Cong. Record*, Vol. 2, Part I, 3.

[2] *Sen. Rept.* No. 426, 43rd Cong., 1st Sess., Cong. Docs., Vol. 1587.

The Committee on Foreign Relations, to whom were referred various petitions praying Congress to provide for the settlement of international difficulties by arbitration, and without a resort to war; and also a "resolution concerning international law for the determination of differences between nations," have given the same careful consideration and beg leave to submit the following resolution:

*Resolved*, That the United States, having at heart the cause of peace everywhere, and hoping to help its permanent establishment between nations, hereby recommend the adoption of arbitration as a just and practical method for the determination of international differences, to be maintained sincerely and in good faith, so that war may cease to be regarded as a proper form of trial between nations.

In the House of Representatives a similar consideration of the question had been going on. John B. Storm of Pennsylvania had introduced a resolution as early as January 22, 1872.[1] The House delayed action until after the Senate report was made. Then it acted with a rush. On June 17, 1874, Stewart L. Woodford of New York moved to suspend the rules and pass a concurrent resolution, and this was done, the following text being accepted without debate:

*Resolved, by the Senate and House of Representatives*, That the President of the United States is hereby authorized and requested to negotiate with all civilized powers who may be willing to enter into such negotiation for the establishment of an international system whereby matters in dispute between different governments agreeing thereto may be adjusted by arbitration, and if possible without recourse to war.[2]

An hour later Godlove S. Orth of Indiana reported another resolution by unanimous consent from the Committee on Foreign Affairs, and this was also adopted without debate. This declaration of principle reads:

*Whereas*, war is at all times destructive of the material interests of a people, demoralizing in its tendencies, and at variance with an enlightened public sentiment; and

*Whereas*, differences between nations should in the interests of humanity and fraternity be adjusted if possible by international arbitration: Therefore,

*Resolved*, That the people of the United States, being devoted to the policy of peace with all mankind, enjoining its blessings and hop-

[1] *Cong. Globe*, 42nd Cong., 2nd Sess., Part I, 497.

[2] *Cong. Record*, Vol. 2, Part VI, 5114.

ing for its permanence and its universal adoption, hereby through their representatives in Congress recommend such arbitration as a rational substitute for war, and they further recommend to the treaty-making power of the Government to provide if practicable that hereafter in treaties made between the United States and foreign powers war shall not be declared by either of the contracting parties against the other until efforts shall have been made to adjust all alleged cause of difference by impartial arbitration.[1]

No action seems to have resulted from either resolution. That the interest in arbitration aroused by the *Alabama* settlement was not confined to the United States is shown by the fact that similar resolutions were being adopted by European parliaments.[2]

[1] *Cong. Record*, Vol. 2, Part VI, 5124.

[2] On July 8, 1873, the British House of Commons adopted the following resolution, moved by Henry Richard, M.P. for Merthyr Tydvil:

"That an humble address be presented to her Majesty, praying that she will be graciously pleased to instruct her principal secretary of state for foreign affairs to enter into communication with foreign powers with a view to further improvement in international law and the establishment of a general and permanent system of international arbitration."

The resolution elicited the following reply on July 17:

"I have received your address praying that I will be graciously pleased to instruct my principal secretary of state for foreign affairs to enter into communication with foreign powers, with a view to further improvement in international law, and the establishment of a general and permanent system of international arbitration.

"I am sensible of the force of the philanthropic motives which have dictated your address.

"I have at all times sought to extend, both by advice and by example, as occasion might offer, the practice of closing controversies between nations by submission to the impartial judgment of friends, and to encourage the adoption of international rules intended for the equal benefit of all.

"I shall continue to pursue a similar course, with due regard to time and opportunity, when it shall seem likely to be attended with advantage."—(Hansard's *Parl. Deb.*, 3rd series, 217, 52–90, 500–501.)

On November 24, 1873, the Italian Chamber of Deputies unanimously adopted the following motion, introduced by Pasquale Stanislao Mancini, recently minister of justice, the whole house rising in token of approval:

"The Chamber expresses the wish that His Majesty's Government will endeavor, in their relations with foreign powers, to render arbitration an acceptable and frequent mode of solving, according to the dictates of equity, such international questions as may admit of that mode of arrangement; that it propose, as occasion offers, to introduce into treaties a clause to the effect that any difference of opinion respecting the interpretation and execution of those treaties is to be referred to arbitrators; and that it persevere in its excellent initiative of many years' standing for the conclusion of conventions between Italy and other civilized nations of a nature to render uniform and obligatory, in the interest of the respective peoples, the essential rules of private international law."—(*Revue de droit international*, VI, 172–176.)

On March 21, 1874, the second chamber of the Swedish Diet, at Stockholm, adopted a resolution (71 ayes, 64 noes), moved by Jonas Jonassen:

"That an humble address be presented to the King, praying that his Majesty will, in the form and under the circumstances which he may think fit, use his best endeavors to procure the establishment of a court of arbitration, either permanent or composed for each special occasion, to settle disputes that may arise between nations."—(*Revue de droit international*, VII, 79.)

On November 27, 1874, the second chamber of the States General of the Netherlands adopted the following motion (35 ayes, 20 noes), introduced by M. Van Eck and M. Bredius:

"The Chamber expresses its desire that the government should negotiate with foreign powers, for the purpose of making arbitration the accepted means for the just settlement of all international differences between civilized nations respecting matters suitable for arbitration; and that until this object has been accomplished, this government will endeavor in all agreements to be entered upon with other states, to stipulate that all differences, capable of such solution, shall be submitted to arbitration."—(*Revue de droit international*, VII, 79–80; *Foreign Relations of the United States*, 1875, 987–988.)

On January 20, 1875, the Chamber of Deputies of Belgium adopted (81 ayes, 2 noes) the following resolution, introduced by M. Couvreur and M. Thonissen:

"This Chamber records its desire to witness an extension of the practice of arbitration among

## HAYES INDORSES GRANT'S POLICY, 1877.

President Hayes in his inaugural address on March 5, 1877, which was a declaration of administration policy, gave the following assurance to his fellow citizens:

The policy inaugurated by my honored predecessor, President Grant, of submitting to arbitration grave questions in dispute between ourselves and foreign powers points to a new, and incomparably the best, instrumentality for the preservation of peace, and will, as I believe, become a beneficent example of the course to be pursued in similar emergencies by other nations.

If, unhappily, questions of difference should at any time during the period of my administration arise between the United States and any foreign government, it will certainly be my disposition and my hope to aid in their settlement in the same peaceful and honorable way, thus securing to our country the great blessings of peace and mutual good offices with all the nations of the world.[1]

## ARTHUR URGES CONGRESS TO ACT.

As early as 1881 the Department of State took up the problem of closer relations with Pan America. The result was a tentative invitation to a conference where all the American states might discuss their mutual problems and devise methods for insuring the maintenance of peaceful relations. The time was not entirely propitious for such a meeting, and it was found advisable to drop the matter for a while. In discussing the subject in his second annual message to Congress of December 4, 1882, President Arthur urged his own desire in these words:

I am unwilling to dismiss this subject without assuring you of my support of any measures the wisdom of Congress may devise for the promotion of peace on this continent and throughout the world, and I trust the time is nigh when, with the universal assent of civilized

civilized nations in all cases to which it may be applicable. It invites the government to aid, as opportunity may offer, in establishing rules of the procedure to be followed in the appointment and duties of international arbitrators. And it hopes that the government whenever it may deem it practicable to do so, when negotiating treaties, will endeavor to obtain the insertion of a clause providing that any differences which may arise, in respect of their execution, may be submitted to the decision of arbitrators."

The same resolution was adopted on February 17, 1875, with absolute unanimity by the Senate of Belgium. On this occasion, the minister for foreign affairs, Count D'Aspremont-Lynden, stated that he did not hesitate for a single moment to declare that it was perfectly opportune for the Belgian Government to support such resolutions.—(*Revue de droit international*, VII, 80–87.)

[1] Richardson, *Messages and Papers of the Presidents*, 4397–4398.

peoples, all international differences shall be determined without resort to arms by the benignant processes of arbitration.[1]

## NEGOTIATIONS WITH SWITZERLAND, 1883.

On April 1, 1883, Col. Emile Frey, Swiss minister to the United States and previously an officer in the American army during the Civil War, addressed a confidential inquiry to Secretary of State Frelinghuysen, regarding the possibility of concluding a general treaty of arbitration between the two countries. Mr. Frelinghuysen accepted the suggestion, and on July 24, 1883, a project of treaty was adopted by the Swiss Federal Council. This draft was the subject of negotiations, which, however, were not concluded. The substantive parts of this treaty, indicating the state of opinion only 34 years ago, are as follows:

1. The contracting parties agree to submit to an arbitral tribunal all difficulties which may arise between them during the existence of the present treaty, whatever may be the cause, the nature or the object of such difficulties.

5. The contracting parties bind themselves to observe and loyally to carry out the arbitral sentence.

## CLEVELAND REPLIES TO BRITISH MEMORIAL, 1887.

The next American move in the direction of a permanent peace policy was inspired from England. William Randal Cremer, who a little later organized the Interparliamentary Union, had been much impressed by the publication of Andrew Carnegie's "Triumphant Democracy," in 1886. On June 16, 1887, Cremer arranged a meeting to consider the best means for obtaining a treaty of arbitration between Great Britain and the United States. At that gathering, Mr. Carnegie asserted that "for years there had not been a political platform formulated by any party in the United States which did not contain the clause 'we are in favor of submitting to arbitration all questions of international dispute.'" With that encouragement, Cremer drew up a memorial from members of the British House of Commons to the President and Congress of the United States. This memorial, signed by 232 members of Parliament, was presented to President Cleveland by a Parliamentary deputation, which was given the

[1] Richardson, *Messages and Papers of the Presidents*, 4718.

privilege of the floor in both houses of Congress a few days later. The memorial reads:

The undersigned members of the British Parliament learn with the utmost satisfaction that various proposals have been introduced into Congress, urging the Government of the United States to take the necessary steps for concluding with the Government of Great Britain a treaty which shall stipulate that any differences or dispute arising between the two Governments, which cannot be adjusted by diplomatic agency, shall be referred to arbitration. Should such a proposal happily emanate from the Congress of the United States, our best influence shall be used to insure its acceptance by the Government of Great Britain. The conclusion of such a treaty would be a splendid example to those nations who are wasting their resources in war-provoking institutions, and might induce other governments to join the peaceful compact.

The President in his reply regretted that he had not given the subject practical attention, and continued:

I am reminded that in the administration of government, difficulty often arises in the attempt to carefully apply ideas which in themselves challenge unqualified approval. Thus it may be that the friends of international arbitration will not be able at once to secure the adoption, in its whole extent, of their humane and beneficent scheme. But surely great progress should be made by a sincere and hearty effort. I promise you a faithful and careful consideration of the matter; and I believe I may speak for the American people in giving the assurance that they wish to see the killing of men for the accomplishment of national ambition abolished, and that they will gladly hail the advent of peaceful methods in the settlement of national disputes, so far as this is consistent with the defense and protection of our country's territory, and with the maintenance of our national honor, when it affords a shelter and repose for national integrity, and personifies the safety and protection of our citizens.[1]

## RESOLUTION OF CONGRESS, 1890, AND RESPONSE OF BRITISH HOUSE OF COMMONS, 1893.

The British memorialists also had an interview with Senator John S. Sherman, chairman of the Committee on Foreign Relations of the Senate, who introduced the following concurrent resolution that was passed by the Senate on June 14, 1888,[2] and finally by both the Senate and House in 1890:

[1] Howard Evans, *Sir Randal Cremer, His Life and Work*, 126–128.
[2] *Cong. Record*, Vol. 19, 5239.

*Resolved by the Senate (the House of Representatives concurring)*, That the President be, and is hereby, requested to invite, from time to time as fit occasions may arise, negotiations with any Government with which the United States has or may have diplomatic relations, to the end that any differences or disputes arising between the two Governments which can not be adjusted by diplomatic agency may be referred to arbitration, and be peaceably adjusted by such means.[1]

The British House of Commons replied to this American initiative in a resolution adopted on June 16, 1893. This British action was the result of considerable effort and popular interest as indicated by "petitions representing nearly 1,300,000 of our contrymen, heartily indorsing the proposal for a treaty of arbitration." The effort to get parliamentary action lasted intermittently for nearly a year and a half and resulted in this definite response to the American suggestion:

*Resolved*, That this House has learnt with satisfaction that both Houses of the United States Congress have, by resolution, requested the President to invite from time to time, as fit occasions may arise, negotiations with any government with which the United States have or may have diplomatic relations, to the end that any differences or disputes arising between the two governments which cannot be adjusted by diplomatic agency may be referred to arbitration and peaceably adjusted by such means; and that this House, cordially sympathizing with the purpose in view, expresses the hope that her Majesty's Government will lend their ready co-operation to the Government of the United States, upon the basis of the foregoing resolutions.[2]

President Cleveland commended this British action to Congress in his message of that year,[3] as requested by Great Britain,[4] and, as a result, negotiations between the United States and Great Britain were begun for a permanent treaty of arbitration, resulting in a

[1] This particular resolution was introduced by Senator Sherman on December 9, 1889. It was reported from the Committee on Foreign Relations, January 15, 1890, and was considered and agreed to by the Senate February 14, 1890, and by the House of Representatives April 3, 1890. The text is reprinted from Misc. Doc. No. 113, 51st Cong., 1st Sess. (*Cong. Docs.*, Vol. 2768).

[2] *Parl. Deb.*, 4th series, XIII, 1240–1273. The resolution was adopted on June 16 and not on July 16 as stated in Sir Julian Pauncefote's note covering it to the Department of State. The typographical error has been generally repeated in subsequent references to the British action. The British discussions of that period will be found in *Parl. Deb.*, 4th series, I, 88, 1813; III, 1664–1676, February 9, March 3 and April 29, 1892.

[3] *Messages and Papers of the Presidents*, 5874.

[4] *Foreign Relations of the United States*, 1893, 346, 352.

document signed on January 11, 1897.[1] This treaty failed to pass the Senate.

## PAN AMERICA FOLLOWS EXAMPLE OF UNITED STATES, 1890.

In his address to the British memorialists in 1887, President Cleveland had said that he was "sorry to be obliged to confess that the practical side of this question has received but little of my attention." The Government was destined within two years to give that attention to practical methods of solving international disputes which the President had stated was not yet accorded to the problem. James G. Blaine while secretary of state in 1881 had invited the governments of the American nations to participate in a congress to be held in Washington "for the purpose of considering and discussing the methods of preventing war between the nations of America." Before this project was realized, Mr. Blaine was out of office, but he again became secretary of state in 1889 and immediately proceeded to carry out his former project. The International American Conference which assembled in that year was the first of the efforts to make Pan America a solid unit for peaceful development. The conference drew up a complete plan for the arbitration of disputes, consisting of an arbitration treaty, a recommendation to European powers expressing the wish that controversies between American republics and European states might be settled by this method, and, in the third place, a resolution that, for the first time in diplomatic history, attacked the right of conquest. This resolution is an interesting precedent, and reads as follows:

*Whereas*, there is, in America, no territory which can be deemed *res nullius;* and

*Whereas*, in view of this, a war of conquest of one American nation against another would constitute a clearly unjustifiable act of violence and spoliation; and

*Whereas*, the possibility of aggressions upon national territory would inevitably involve a recourse to the ruinous system of war armaments in time of peace; and

*Whereas*, the Conference feels that it would fall short of the most exalted conception of its mission were it to abstain from embodying

[1] Negotiations for the treaty began in 1896. On July 8, 1895, the French Chamber of Deputies passed this resolution:

"The Chamber invites the Government to negotiate, as soon as possible, a permanent treaty of arbitration between the French Republic and the Republic of the United States of America."—(*Foreign Relations of the United States*, 1895, 427; *cf. Messages and Papers of the Presidents*, 6060.)

its pacific and fraternal sentiments in declarations tending to promote national stability and guarantee just international relations among the nations of the continent; Be it therefore

*Resolved by the International American Conference*, That it earnestly recommends to the Governments therein represented the adoption of the following declarations:

First. That the principle of conquest shall not, during the continuance of the treaty of arbitration, be recognized as admissible under American public law.

Second. That all cessions of territory made during the continuance of the treaty of arbitration shall be void if made under threats of war or in the presence of an armed force.

Third. Any nation from which such cessions shall be exacted may demand that the validity of the cessions so made shall be submitted to arbitration.

Fourth. Any renunciation of the right to arbitration, made under the conditions named in the second section, shall be null and void.[1]

No action resulted from this recommendation so far as a multipartite treaty was concerned. But the recommendations had their effect in the conduct of foreign relations, and their influence on the Brazilian constitution of February 24, 1891, appears in this article:

Art. 34. The National Congress shall have exclusive power:

II. To authorize the Government to declare war, when arbitration has failed or cannot take place, and to make peace.

## HARRISON'S HOPEFUL ATTITUDE.

President Harrison in his message of December 3, 1889, had said concerning the Pan American conference:

It is a matter of high significance and no less of congratulation that the first year of the second century of our constitutional existence finds as honored guests within our borders the representatives of all the independent states of North and South America met together in earnest conference touching the best methods of perpetuating and expanding the relations of mutual interest and friendliness existing among them. . . . But while the commercial results which it is hoped will follow this conference are worthy of pursuit and of the great interests they have excited, it is believed that the crowning benefit will be found in the better securities which may be devised for the

[1] Sen. Ex. Doc. No. 224, 51st Cong., 1st Sess., 6.

maintenance of peace among all American nations and the settlement of all contentions by methods that a Christian civilization can approve.[1]

The plan of arbitration adopted by the conference justified the President's expectation, for it has ever since been considered a model. It drew from President Harrison, in his letter of transmittal to the Senate, the remark that ratification of the treaties proposed would "constitute one of the happiest and most hopeful incidents in the history of the Western hemisphere." The provisions which elicited this commendation are:

Art. I. The republics of North, Central and South America hereby adopt arbitration as a principle of American international law for the settlement of the differences, disputes or controversies that may arise between two or more of them.

Art. II. Arbitration shall be obligatory in all controversies concerning diplomatic and consular privileges, boundaries, territories, indemnities, the right of navigation, and the validity, construction and enforcement of treaties.

Art. III. Arbitration shall be equally obligatory in all cases other than those mentioned in the foregoing article, whatever may be their origin, nature or object, with the single exception mentioned in the next following article.

Art. IV. The sole questions excepted from the provisions of the preceding articles are those which, in the judgment of any one of the nations involved in the controversy, may imperil its independence. In which case, for such nation, arbitration shall be optional; but it shall be obligatory upon the adversary power.

Art. V. All controversies or differences, whether pending or hereafter arising, shall be submitted to arbitration, even though they may have originated in occurrences antedating the present treaty.[2]

## CLEVELAND'S ADVANCE IN HIS SECOND ADMINISTRATION.

In view of President Cleveland's frank confession to the British memorialists in 1887 during his first administration, that he had given little attention to the practical side of arbitration, it is peculiarly interesting to observe that his experience in negotiating the treaty of arbitration of January 11, 1897, with Great Britain had converted him into an ardent champion of the principle. In his letter transmitting the text of that treaty to the Senate, he wrote:

[1] Richardson, *Messages and Papers of the Presidents*, 5467–5468.
[2] Sen. Ex. Doc. No. 224, 51st Cong., 1st Sess., 2–3.

The provisions of the treaty are the result of long and patient deliberation and represent concessions made by each party for the sake of agreement upon the general scheme.

Though the result reached may not meet the views of the advocates of immediate, unlimited and irrevocable arbitration of all international controversies, it is nevertheless confidently believed that the treaty can not fail to be everywhere recognized as making a long step in the right direction and as embodying a practical working plan by which disputes between the two countries will reach a peaceful adjustment as matter of course and in ordinary routine.

In the initiation of such an important movement it must be expected that some of its features will assume a tentative character looking to a further advance, and yet it is apparent that the treaty which has been formulated not only makes war between the parties to it a remote possibility, but precludes those fears and rumors of war which of themselves too often assume the proportions of national disaster.

It is eminently fitting as well as fortunate that the attempt to accomplish results so beneficent should be initiated by kindred peoples, speaking the same tongue and joined together by all the ties of common traditions and common aspirations. The experiment of substituting civilized methods for brute force as the means of settling international questions of right will thus be tried under the happiest auspices. Its success ought not to be doubtful, and the fact that its ultimate ensuing benefits are not likely to be limited to the two countries immediately concerned should cause it to be promoted all the more eagerly. The examples set and the lessons furnished by the successful operation of this treaty are sure to be felt and taken to heart sooner or later by other nations, and will thus mark the beginning of a new epoch in civilization.

Profoundly impressed as I am, therefore, by the promise of transcendent good which this treaty affords, I do not hesitate to accompany its transmission with an expression of my earnest hope that it may commend itself to the favorable consideration of the Senate.[1]

## VIEWS OF PRESIDENT McKINLEY, 1897.

Eleven years before he became President, William McKinley had introduced into the House of Representatives a bill authorizing the President to invite delegates of the other American Republics to a conference to "revise, formulate and recommend a precise and definite plan of arbitration for all differences" among them. In his inaugural address on March 4, 1897, President McKinley reverted to the

[1] Richardson, *Messages and Papers of the Presidents*, 6178–6179.

subject again in connection with the treaty with Great Britain which his administration was expected to make effective. In view of the fact that the fate of this treaty illustrates the sinister part which the United States Senate has played in defeating at least three of the most hopeful attempts at international organization, the President's remarks on this occasion are particularly noteworthy:

Arbitration is the true method of settlement of international as well as local or individual differences. It was recognized as the best means of adjustment of differences between employers and employees by the Forty-ninth Congress in 1886, and its application was extended to our diplomatic relations by the unanimous concurrence of the Senate and House of the Fifty-first Congress in 1890. The latter resolution was accepted as the basis of negotiations with us by the British House of Commons in 1893, and upon our invitation a treaty of arbitration between the United States and Great Britain was signed at Washington and transmitted to the Senate for ratification in January last.

Since this treaty is clearly the result of our own initiative, since it has been recognized as the leading feature of our foreign policy throughout our entire national history—the adjustment of difficulties by judicial methods rather than force of arms—and since it presents to the world the glorious example of reason and peace, not passion and war, controlling the relations between two of the greatest nations of the world, an example certain to be followed by others, I respectfully urge the early action of the Senate thereon, not merely as a matter of policy, but as a duty to mankind. The importance and moral influence of the ratification of such a treaty can hardly be overestimated in the cause of advancing civilization. It may well engage the best thought of the statesmen and people of every country, and I cannot but consider it fortunate that it was reserved to the United States to have the leadership in so grand a work.[1]

The treaty which the President discussed so hopefully did not receive the approval of the Senate, and therefore could not be ratified by the executive. This was a disappointment to President McKinley, for in his first annual message, dated December 6, 1897, he said:

International arbitration cannot be omitted from the list of subjects claiming our consideration. Events have only served to strengthen the general views on this question expressed in my inaugural address. The best sentiment of the civilized world is moving toward the settlement of differences between nations

[1] Richardson, *Messages and Papers of the Presidents*, 6242.

without resorting to the horrors of war. Treaties embodying these humane principles on broad lines, without in any way imperiling our interests or our honor, shall have my constant encouragement.[1]

## THE FIRST HAGUE CONFERENCE, 1899.

In 1898, the Emperor of Russia invited the powers to what became known as the First Peace Conference at The Hague. In 1896, David Jayne Hill, assistant secretary of state, had delivered an address entitled "International Justice; with a Plan for its Permanent Organization" before the American Social Science Association. In that paper, which was republished in pamphlet form, the American diplomat reviewed the historic efforts to organize an international judicial system, criticised them, and offered certain suggestions of his own. Sir Julian Pauncefote, British ambassador to the United States, had also been much impressed with the possibilities of arbitration as a result of the negotiations for a treaty with the United States just before the publication of the Czar's manifesto. What followed is best told in Mr. Hill's own words:

"One day (November, 1898) the door of my office opened, and the genial face of John Hay appeared. He walked into my room saying, 'I have brought you a visitor'; and Lord Pauncefote, following, as the door was swung open, entered the room. Mr. Hay said, 'Lord Pauncefote has brought to the department a little pamphlet about international justice. He has come to talk with regard to the answer to be given to the Czar's rescript calling the Conference at The Hague. I think you have thought a little about that subject, and I believe you have written something upon it. Won't you sit down with Lord Pauncefote and discuss it?' And so that venerable diplomat and jurist sat down with me and for half an hour we discussed this subject. 'It is quite impossible,' he said very calmly, 'that anything should be done at that conference in the direction of disarmament or of arresting armament; but isn't it possible that there should be a movement in the direction of a court of arbitration?'"[2]

Mr. Hill wrote the instructions of the Department of State to the delegates to the Peace Conference, and he annexed thereto his plan

[1] *Ibid.*, 6267.

[2] *Fourth National Conference, American Society for Judicial Settlement of International Disputes*, pp. 383–384.

for an international tribunal. At the conference, work began in the third Commission on the basis of projects presented by Russia, and written by the great publicist Feodor Martens. This project aimed only to create machinery for the use of such international commissions as might be established independently by the powers. After this project was read, Sir Julian Pauncefote as the first British delegate arose and spoke "in the sort of plain, dogged way of a man who does not purpose to lose what he came for." "It seems to me," he said, "that new codes and regulations for arbitration, whatever their merit, do not much advance the great cause which brings us together. If we desire to take a step in advance, I am of the opinion that it is absolutely necessary to organize a permanent international tribunal which may be convened on a moment's notice at the request of the contesting nations." Sir Julian began drafting a project as soon as he had finished speaking, and telegraphed it for approval to the British minister for foreign affairs. This British plan and the American project, together with a plan presented by Russia, became the foundation of the Hague Permanent Court of Arbitration. Here for the first time definite methods of pacific settlement of international disputes became a recognized part of international procedure.

## ROOSEVELT.—AMERICA SUBMITS THE FIRST CASE, 1901.

Theodore Roosevelt succeeded to the Presidency of the United States on September 14, 1901, six months after the Hague Court of Arbitration had been declared open for business. One of the first foreign visitors whom he entertained at the White House was a French senator, who was one of the most active members of the Interparliamentary Union, which has so influentially affected the attitude of parliaments in favor of the pacific settlement of international disputes. It was feared that Continental chancelleries would permit the established Court to die of inanition. This idea was presented to President Roosevelt. The American Executive, suspecting that the American Department of State, like all other chancelleries, had plenty of unsolved problems capable of arbitral solution, inquired of the secretary of state whether he did not have a pending dispute that was suitable to start the work of the new international institution. Secretary Hay did have such a problem, one of long standing, due to the fact that the southwestern part of the

United States had once been under the Mexican flag, and that the Mexican clerical authorities had possessed much property in that territory. As a consequence, the Pious Funds case between the United States and Mexico was submitted at The Hague and duly decided.[1]

## SUPPORT FOR PAN AMERICAN PROGRESS 1901.

President Roosevelt gave instructions on October 8, 1901, to the delegates to the Second Pan American Conference that they should support arbitration during its sessions in Mexico City. He used these words:

The Government of the United States is favorable to the pacific settlement of international disputes and will be gratified to see provision for such settlement promoted and applied wherever practicable. In the discussion of this subject and in the formation of any convention that may be proposed relating to it, the commission will be guided by the following general principles: (1) All arbitration should be voluntary; (2) the choice of judges should be left to mutual agreement; (3) the locality in which a tribunal of arbitration is to act, in case one should be instituted, should not be definitely prescribed in a general convention.[2]

Organization for peace played a considerable part in that conference. Among its results were the adhesion of 19 American republics to the Hague Convention for the Pacific Settlement of International Disputes; a convention for the arbitration of pecuniary claims; and a draft plan for compulsory arbitration.

[1] Mr. Roosevelt tells the story in his *Chapters of a Possible Autobiography:*

"It was under my administration that the Hague Court was prevented from becoming an empty farce. It had been established by joint international agreement, but no power had been willing to resort to it. Those establishing it had grown to realize that it was in danger of becoming a mere paper court, so that it would never really come into being at all. M. d'Estournelles de Constant had been especially alive to this danger. By correspondence and in personal interviews he impressed upon me the need not only of making advances by actually applying arbitration—not merely promising by treaty to apply it—to questions that were up for settlement, but of using the Hague Tribunal for this purpose. I cordially sympathized with these views. On the recommendation of John Hay, I succeeded in getting an agreement with Mexico to lay a matter in dispute between the two republics before the Hague Court. This was the first case ever brought before the Hague Court. It was followed by numerous others; and it definitely established that Court as the great international peace tribunal."

[2] Sen. Doc. No. 330, 57th Cong., 1st Sess., 34.

## SERIES OF ARBITRATION TREATIES NEGOTIATED, 1904.

Shortly after the First Hague Conference, Sir Thomas Barclay, then a commoner practicing law in Paris, began a campaign for the betterment of relations between Great Britain and France. On March 27, 1901, he proposed in an address before the French Arbitration Society that the two neighboring countries should have an arbitration treaty. Barclay organized and conducted an active propaganda for this proposition, which was crowned with success by a treaty signed on October 14, 1903. When the treaty was concluded Barclay was in the United States, whither he had come to interest the American authorities in it.[1] The visit was effective. He saw several prominent men, including Secretary of State Hay, and as a result a Second American Conference on International Arbitration was held in Washington on January 12, 1904. It was largely due to the public interest thus created that Secretary Hay issued on October 20, 1904, an invitation to the governments signatory to the Hague convention to enter into arbitration treaties with the United States. In this circular the secretary instructed American diplomats:

The President, in his last message to the Congress of the United States, on December 7, 1903, stated:

"There seems good ground for the belief that there has been a real growth among the civilized nations of a sentiment which will permit a gradual substitution of other methods than the method of war in the settlement of disputes. It is not pretended that as yet we are near a position in which it will be possible wholly to prevent war, or that a just regard for national interest and honor will in all cases permit of the settlement of international disputes by arbitration; but by a mixture of prudence and firmness with wisdom we think it is possible to do away with much of the provocation and excuse for war, and at least in many cases to substitute some other and more rational method for the settlement of disputes. The Hague Court offers so good an example of what can be done in the direction of such settlement that it should be encouraged in every way."

Moved by these views, the President has charged me to instruct you to ascertain whether the Government to which you are accredited, which he has reason to believe is equally desirous of advancing the principle of international arbitration, is willing to conclude with the Government of the United States an arbitration treaty of like tenor

[1] Sir Thomas Barclay, *Thirty Years. Anglo-French Reminiscences (1876–1906)*, pp. 194–241.

to the arrangement concluded between France and Great Britain, on October 14, 1903.

I enclose herewith a copy of both the English and French texts of that arrangement. Should the response to your inquiry be favorable, you will request the government to authorize its minister at Washington to sign the treaty with such plenipotentiary on the part of the United States as the President may be pleased to empower for the purpose.[1]

As a result of this invitation a series of treaties was negotiated. They failed because of the chronic attitude of the Senate in regard to its participation in the special agreement of submission. Secretary Root modified the treaties to meet the scruples of the Senate and secured the assent of the other governments to the change. As altered, 25 of these treaties were negotiated in 1908 and 1909, becoming effective with this provision respecting the scope of arbitration:

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two contracting parties and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the 29th of July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence or the honor of the two contracting States, and do not concern the interests of third parties.[2]

## INTERNATIONAL POLICE FORCE—ROOSEVELT, 1904.

The settlement of the Pious Funds case was not only a triumph for the Hague Court, but it also had the effect of causing the President to study the problem of peace. He developed his ideas with typical vigor in his message to Congress, dated December 6, 1904, in which for the first time in recent years the head of a state frankly faced the question of co-ordinating international justice with international force. In this message, the President said:

It is our duty to remember that a nation has no more right to do injustice to another nation, strong or weak, than an individual has

[1] *Foreign Relations of the United States*, 1904, 8–9.

[2] *Treaties, Conventions*, etc., 1776–1909, 59. The treaties are effective, after renewal, with the following: Argentine Republic, Austria-Hungary, Bolivia, Brazil, Chile, China, Costa Rica, Denmark, Ecuador, France, Great Britain, Haiti, Italy, Japan, Mexico, Netherlands, Norway, Paraguay, Peru, Portugal, Salvador, Spain, Sweden, Switzerland and Uruguay. The Imperial German government declined to sign the treaty.

to do injustice to another individual; that the same moral law applies in one case as in the other. But we must also remember that it is as much the duty of the nation to guard its own rights and its own interests as it is the duty of the individual so to do. Within the nation the individual has now delegated this right to the state, that is, to the representative of all the individuals, and it is a maxim of the law that for every wrong there is a remedy. But in international law we have not advanced by any means as far as we have advanced in municipal law. There is as yet no judicial way of enforcing a right in international law. When one nation wrongs another or wrongs many others, there is no tribunal before which the wrong-doer can be brought. Either it is necessary supinely to acquiesce in the wrong, and thus put a premium upon brutality and aggression, or else it is necessary for the aggrieved nation valiantly to stand up for its rights. Until some method is devised by which there shall be a degree of international control over offending nations, it would be a wicked thing for the most civilized powers, for those with most sense of international obligations and with keenest and most generous appreciation of the difference between right and wrong, to disarm. If the great civilized nations of the present day should completely disarm, the result would mean an immediate recrudescence of barbarism in one form or another. Under any circumstances a sufficient armament would have to be kept up to serve the purposes of international police; and until international cohesion and the sense of international duties and rights are far more advanced than at present, a nation desirous both of securing respect for itself and of doing good to others must have a force adequate for the work which it feels is allotted to it as its part of the general world duty. Therefore it follows that a self-respecting, just and far-seeing nation should on the one hand endeavor by every means to aid in the development of the various movements which tend to provide substitutes for war, which tend to render nations in their actions toward one another, and indeed toward their own peoples, more responsive to the general sentiment of humane and civilized mankind; and on the other hand that it should keep prepared, while scrupulously avoiding wrong-doing itself, to repel any wrong, and in exceptional cases to take action which in a more advanced stage of international relations would come under the head of the exercise of the international police. A great free people owes it to itself and to all mankind not to sink into helplessness before the powers of evil.[1]

[1] Fourth Annual Message, December 6, 1904, Richardson, *Messages and Papers of the Presidents*, 7052–7053.

PRESIDENT A NOBEL PEACE LAUREATE, 1906.

This portion of the President's message created much discussion at the time, and was generally condemned by the leaders of the peace movement of that period, who tended to center their efforts upon securing a reduction of armaments.

The following summer the President became the leading figure in the movement for international peace by virtue of the important part which he played in bringing about the Treaty of Portsmouth, which closed the Russo-Japanese War in 1905. The Committee of the Norwegian Storthing which controls the Nobel peace prize awarded that prize to the President of the United States the following year.

When Mr. Roosevelt stepped down from the presidency on March 4, 1909, and shortly sailed for Africa on a hunting trip, he had acquired a unique distinction which gave his sayings and doings peculiar interest both in the Old World and in the New. On his return from Africa, he made many addresses in Europe, one of which was his address at Kristiania, Norway, as Nobel peace prize laureate. In that speech, he offered a definite scheme for a league of peace, which attracted much attention and sank deep into the minds of European publicists. Mr. Roosevelt at Kristiania said:

Finally, it would be a master stroke if those great powers honestly bent on peace would form a league of peace, not only to keep the peace among themselves, but to prevent, by force if necessary, its being broken by others. The supreme difficulty in connection with developing the peace work of The Hague arises from the lack of any executive power, of any police power to enforce the decrees of the court. In any community of any size the authority of the courts rests upon actual or potential force; on the existence of a police, or on the knowledge that the able-bodied men of the country are both ready and willing to see that the decrees of judicial and legislative bodies are put into effect. In new and wild communities where there is violence, an honest man must protect himself; and until other means of securing his safety are devised, it is both foolish and wicked to persuade him to surrender his arms while the men who are dangerous to the community retain theirs. He should not renounce the right to protect himself by his own efforts until the community is so organized that it can effectively relieve the individual of the duty of putting down violence. So it is with nations. Each nation must keep well prepared to defend itself until the

establishment of some form of international police power, competent and willing to prevent violence as between nations. As things are now, such power to command peace throughout the world could best be assured by some combination between those great nations which sincerely desire peace and have no thought themselves of committing aggressions. The combination might at first be only to secure peace within certain definite limits and certain definite conditions; but the ruler or statesman who should bring about such a combination would have earned his place in history for all time and his title to the gratitude of all mankind.[1]

## THE NEXT STEP—A COURT OF PERMANENT JUDGES, 1907.

The Hague court began operation in 1901, and since that time has had on its docket 17 cases, of which 15 have been decided. Its operation previous to the Second Hague Conference in 1907 demonstrated that while it was sound in principle and timely in appearance, it was inadequate because it was not what it purported to be, a "permanent court of arbitration." For the court established at The Hague was merely a panel of judges from which arbitrators might conveniently be chosen by litigant nations. The next logical step in advance was taken by the United States. Secretary of State Root saw the cogency of the arguments for a court consisting of permanent judges, and in his instructions to the American delegates to the Second Hague Conference he discussed the problem involved and gave this positive direction:

It should be your effort to bring about in the Second Conference a development of The Hague Tribunal into a permanent tribunal composed of judges who are judicial officers and nothing else, who are paid adequate salaries, who have no other occupation, and who will devote their entire time to the trial and decision of international causes by judicial methods and under a sense of judicial responsibility.[2]

The American delegates loyally carried out the desire of their Government. Before the conference was over, they had enlisted the co-operation of Great Britain and Germany for their plan, which was complete, except for a method of successfully apportioning 15 judges among 44 states. But the American delegates succeeded in having the principle indorsed in the Final Act of the conference, to which

[1] *African and European Addresses*, 81–83. The address was entitled "International Peace" and was delivered at Kristiania, May 5, 1910.

[2] *Foreign Relations of the United States*, 1907, 1135. The instructions are dated May 31, 1907.

was appended the entire project, minus details respecting the composition of the court. Though the conventions signed by the conference required ratification by the powers to become binding, the Final Act did not; so that, while the project failed of immediate realization, the wish expressed in the Final Act committed 44 states of the civilized world to the advisability of such a court in these words:

The conference calls the attention of the signatory powers to the advisability of adopting the annexed draft convention for the creation of a Court of Arbitral Justice, and of bringing it into force as soon as an agreement has been reached respecting the selection of the judges and the constitution of the court.[1]

The American Government continued to work for a Court of Arbitral Justice, being thus assured that the plan must come before a third Hague conference, and it is more than probable that, if the European war had not broken out in 1914, such a court would now be in existence.

## TAFT.—A STEP TOWARD WORLD ORGANIZATION, 1910.

With the idea of a league of peace backed by regulated force already prominently launched by a former President of the United States, there was formed in New York at almost the time when Mr. Roosevelt was speaking at Kristiania an organization called the World Federation League. This organization proved to be short-lived; but it was instrumental in having Congress consider and pass a joint resolution providing for a commission to study the preservation of peace and the establishment of a combined force for its maintenance. This resolution, which was approved by President Taft on June 25, 1910, is of peculiar significance because it is believed to be the first attempt on the part of any legislature to initiate an organization of the nations of the world, with or without the element of force. The joint resolution as passed reads:

[No. 43.] JOINT RESOLUTION TO AUTHORIZE THE APPOINTMENT OF A COMMISSION IN RELATION TO UNIVERSAL PEACE.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That a commission of five members be appointed by the President of the United States to

[1] Scott, *Texts of the Peace Conference at The Hague 1899 and 1907*, 138–139.

consider the expediency of utilizing existing international agencies for the purpose of limiting the armaments of the nations of the world by international agreement, and of constituting the combined navies of the world an international force for the preservation of universal peace, and to consider and report upon any other means to diminish the expenditures of government for military purposes and to lessen the probabilities of war: Provided, That the total expense authorized by this Joint Resolution shall not exceed the sum of ten thousand dollars and that the said commission shall be required to make final report within two years from the date of the passage of this resolution.

Approved, June 25, 1910.[1]

The idea was in advance of its time, even though it correctly expressed the aspirations of the American Congress and the American people. When the Government inquired of other states as to their attitude on the matter and the Department of State examined the world situation with a view to realizing the purpose intended, it was found that action was not possible. There is only one official statement respecting the matter in American public records, but that is clear and accurately reflects the situation at the time. President Taft in his annual message of December 6, 1910, wrote:

I have not as yet made appointments to this commission because I have invited and am awaiting the expression of foreign governments as to their willingness to co-operate with us in the appointment of similar commissions or representatives who would meet with our commissioners and by joint action seek to make their work effective.[2]

Foreign governments evidently discouraged the American initiative.

## RADICAL EXTENSION OF ARBITRATION PROPOSED BY PRESIDENT.

Two weeks lacking a day after the publication of this message, President Taft proved how thoroughly he had the cause of pacific settlement at heart by consenting to address the annual meeting of the American Society for Judicial Settlement of International Disputes at its annual banquet. Not only did he lend to the ideal for which the society stood the prestige of his position, but he thrilled his hearers, and the world next day through the newspapers, by suggesting, responsibly, for the first time on behalf of a great power, that the arbitral settlement of every issue between states, whether

[1] *Statutes at Large*, 36, Part I, 885.
[2] *Foreign Relations of the United States*, 1910, ix.

or not involving honor or vital interest, might be attempted. In his address, he made an assertion which was immediately taken up as indicating a new American policy. His words were:

If now we can negotiate and put through a positive agreement with some great nation to abide the adjudication of an international arbitral court in every issue which can not be settled by negotiation, no matter what it involves, whether honor, territory, or money, we shall have made a long step forward by demonstrating that it is possible for two nations at least to establish as between them the same system of due process of law that exists between individuals under a government.

It seems to be the view of many that it is inconsistent for those of us who advocate any kind of preparation for war or any maintenance of armed force or fortification to raise our voices for peaceful means of settling international controversies. But I think this view is quite unjust and is not practical. We only recognize existing conditions and know that we have not reached a point where war is impossible or out of the question, and do not believe that the point has been reached in which all nations are so constituted that they may not at times violate their national obligations.[1]

President Taft showed without delay that he was in earnest. The administration announced the intention of negotiating treaties involving the solution of every issue by peaceful methods with two of the great powers. American relations with France had proceeded without a ripple of distrust or serious difference for a century, and there was a mutual admiration between the two republics that made France a natural party to such an agreement. America's relations with the other great English-speaking state, Great Britain, had varied; but the year in which the President spoke had seen the settlement of the last continued and serious difference between the two countries, when the Hague Permanent Court of Arbitration had rendered its decision in the North Atlantic Fisheries controversy. Cordial relations, similarity in institutions, a common language, and like ideals all pointed to Great Britain as another participant in the projected step forward. Great Britain and France were approached and were found to be responsive.

The problem remained to find a formula capable at the same time of realizing what the President had in mind, and of safeguarding the

[1] *Proceedings of International Conference* under the auspices of the American Society for the Judicial Settlement of International Disputes, Washington, D.C., December 15–17, 1910, 353.

rights of the contracting states. In addressing the Third National Peace Congress at its opening session in Baltimore on May 3, 1911, he hinted at the difficulties confronting the administration:

Your chairman has been good enough to refer to something that I had said with reference to a hope for general arbitration, and the expression of opinion that an arbitration treaty of the widest scope between two great nations would be a very important step in securing the peace of the world. I do not claim any patent on that statement, and I have no doubt that it is shared by all who understand the situation at all. I have no doubt that an important step—if such an arbitration treaty can be concluded—will have been taken, but it will not bring an end of war at once. It is a step, and we must not defeat our purposes by enlarging the expectation of the world as to what is to happen and then disappointing them. In other words, we must look forward with reasonable judgment, and look to such an arbitration treaty as one step, to be followed by other steps as rapidly as possible; but we must realize that we are dealing with a world that is fallible and full of weakness—with some wickedness in it—and that reforms that are worth having are brought about little by little and not by one blow. I do not mean to say by this I am not greatly interested in bringing about the arbitration treaty or treaties that are mentioned, but I do think that we are likely to make more progress if we look forward with reasonable foresight and realize the difficulties that are to be overcome, than if we think we have opened the gate to eternal peace with one key and within one year.[1]

The actual work of negotiation was intrusted to Chandler P. Anderson, counselor of the Department of State. His work was much facilitated by the sympathy for the project evinced by Ambassadors James Bryce of Great Britain and Jules Jusserand of France. Treaties were signed on August 3, 1911, embodying an idea which had first been developed by William Jennings Bryan at the London Conference of the Interparliamentary Union on July 24, 1906. The formula adopted distinguished for the first time in a formal manner between justiciable disputes, to be settled by legal methods, and nonjusticiable disputes, to be resolved by a process of extra-legal and extra-diplomatic investigation. For six months following the publication of these treaties, they were one of the principal subjects of public comment. With tenacious insistence upon its alleged prerogatives, the Senate failed to advise and consent to the ratification

[1] *Proceedings of Third National Peace Conference*, Baltimore, May 3, 1911, 14–15.

of these treaties, taking the attitude it had previously assumed in the case of the Anglo-American treaty of 1897 and the 1904 series of treaties. After some amendments, based on provincial prejudices which legal experts from that time forward have pronounced to be invalid, the Senate gave the requisite consent.[1] The President did not proceed to the ratification of the treaties, because the extraneous amendments destroyed their full usefulness as world-models. As negotiated the treaties provided:

ART. I. All differences hereafter arising between the High Contracting Parties, which it has not been possible to adjust by diplomacy, relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other arbitral tribunal, as shall be decided in each case by special agreement. . . .

ART. II. The High Contracting Parties further agree to institute as occasion arises, and as hereinafter provided, a Joint High Commission of Inquiry to which, upon the request of either Party, shall be referred for impartial and conscientious investigation any controversy between the Parties within the scope of Art. I, before such controversy has been submitted to arbitration, and also any other controversy hereafter arising between them even if they are not agreed that it falls within the scope of Art. I; provided, however, that such reference may be postponed until the expiration of one year after the date of the formal request therefor, in order to afford an opportunity for diplomatic discussion and adjustment of the questions in controversy, if either Party desires such postponement. . . .

ART. III. . . . It is further agreed, however, that in cases in which

[1] President Taft strongly opposed the Senate's attitude at the time, and as an ex-President has many times rebutted its arguments. In his book, *The United States and Peace*, published in 1914, he wrote (pages 112, 115–116):

"As in the consideration of the Hay treaties, so here it was argued that the President and the Senate would unlawfully delegate their treaty-making power if they agreed that a tribunal should finally adjudge that a specific difference, subsequently arising, was in the class of differences covered by the treaty. It is very difficult to argue this question because the answer to it is so plain and obvious. . . .

"Nevertheless, the Senate struck out the provisions for a decision by the Joint High Commission. I considered this proposition the most important feature of the treaty, and I did so because I felt that we had reached a time in the making of promissory treaties of arbitration when they should mean something. The Senate halted just at the point where a possible and real obligation might be created. I do not wish to minimize the importance of general expressions of good-will and general declarations of willingness to settle everything without war, but the long list of treaties that mean but little can now hardly be made longer, for they include substantially all the countries of the world. The next step is to include something that really binds somebody in a treaty for future arbitration."

the Parties disagree as to whether or not a difference is subject to arbitration under Art. I of this Treaty, that question shall be submitted to the Joint High Commission of Inquiry; and if all or all but one of the members of the Commission agree and report that such difference is within the scope of Art. I, it shall be referred to arbitration in accordance with the provisions of this Treaty.[1]

The incident in American national history, however, is not to be counted a failure. It broadened interest in the cause of world organization, and it convinced many in and out of public life that sound advances toward a practical plan for insuring peace were possible. Moreover, it had the effect of bringing the once remote problems of international peace into the sphere of practical politics.

## THE LARGER GOAL, A LEAGUE OF NATIONS, 1911.

President Taft, however, was looking beyond the treaties he attempted to establish as a world model. He made this clear in his public speeches. One of the notable occasions on which he expressed his views was the Citizens' Peace Banquet at the Waldorf Astoria in New York on December 30, 1911. At that time, he definitely foreshadowed the idea of a league of nations, and particularly emphasized the fact that his own treaties and even a full-fledged international arbitral court were to be considered only as steps toward a larger goal. In the course of his remarks, he said:

We have gone on in this present day and generation until we are all in a sense "armed camps"—not so much in this country, because we have two oceans between us and possible danger, but in Europe the burden of armament I need not overstate, because I could not overstate it; and yet any movement for a voluntary disarmament up to this has been a failure, an absolute failure. And why? Because each nation feels that if an international controversy arises, war may follow, and if war does follow, each nation feels it its patriotic duty to be ready to prevent its defeat, its disintegration, and so for safety each nation maintains this armament. Now how are we going to get rid of it? We are never going to get rid of it until we substitute some method of settling international controversies that every nation may rely upon as a certain method of settling them. When you get an arbitral court, supported by the authority and the prestige of all the powerful nations of the earth, under treaties binding

[1] *Treaties, Conventions*, etc., 1776–1909, Supplement, 1913, 380–382.

every one, then you have a means of settling controversies that every nation may look to with certainty, and until we do get that we shall not get that something which may be substituted for war as a means of settling controversies between nations. Why am I in favor of these treaties? It is because these treaties I regard as the first steps toward the establishment of such an arbitral court.[1]

The idea continued to be dominant in the President's mind during the remainder of his administration. At a luncheon given by the International Peace Forum to him at the Waldorf Astoria in New York on January 4, 1913, he again stated his belief in a way which completely foreshadowed the program of the League to Enforce Peace, of which he has been president since its organization on June 17, 1915. The following statement by the President was more than a declaration of personal views, it was an assertion of state policy:

My own idea was that if we could make those treaties, they would form a basis for a treaty with every other nation by the United States, and then between other nations than the United States, and finally, by interlocking and intertwining all the treaties, we might easily then come to the settlement of all international questions by a court of arbitration, a permanent, well-established court of arbitration, whose powers are to be enforced by the agreement of all nations, and into which any nation may come as a complainant and bring any other nation as a defendant, and compel that defendant nation to answer to the complaint under the rules of law established for international purposes, and under the rules of law which would necessarily, with such a court, grow into a code that would embrace all the higher moral rules of Christian civilization.[2]

## WILSON.—NEW SERIES OF TREATIES INITIATED, 1913.

President Wilson succeeded President Taft on March 4, 1913. The effort of his administration to make progress was destined to be successful. The previous administration had failed in an effort to combine the principles of arbitration and the commission of inquiry in a single system of pacific settlement. The new administration decided to leave the 25 existent treaties of arbitration then in force undisturbed, and to negotiate independent treaties establishing permanent commissions of investigation for all questions not properly falling under the arbitration treaties. These "treaties for

[1] *Peace*, March, 1912, 7. [2] *The Peace Forum*, February, 1913, 12.

the advancement of peace," as they are officially called, are at present in force with 20 countries, while 10 more have been signed and five others accept the principle. Their effect has been to add to the practical machinery of pacific settlement a method for resolving all nonjusticiable disputes. The treaties already in force contain the following essential provisions:

ART. I. The high contracting parties agree that all disputes between them, of every nature whatsoever, which diplomacy shall fail to adjust shall be submitted for investigation and report to an International Commission, to be constituted in the manner prescribed in the next succeeding Article; and they agree not to declare war or begin hostilities during such investigation and report.

ART. II. The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments. . . .

ART. III. In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, act upon its own initiative, and in such case it shall notify both Governments and request their co-operation in the investigation.

The report of the International Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the high contracting parties shall extend the time by mutual agreement. . . .

The high contracting parties reserve the right to act independently on the subject-matter of the dispute after the report of the Commission shall have been submitted.

## PRESIDENT ADVOCATES A COMMON FORCE.

International practice was in this phase of development when the European war broke out. Immediately, clear-sighted citizens sought to devise some workable plan of securing a just and lasting peace after the war itself had ended. A judicial court was the most obvious part of such a plan. The principle of a commission of investigation to conciliate differing parties was equally well recognized owing to the publicity given to the American peace plan. Diplomatic conferences

to codify international practice into international law were familiar, thanks to the Hague Conferences, and were unchallenged in principle. Beyond that, the way was not so clear; but it was the feeling of many competent observers that the time was ripe for a form of international organization in which these accepted principles were re-enforced by an international sanction. This conviction was successfully championed by President A. Lawrence Lowell of Harvard University when the League to Enforce Peace was organized in Philadelphia.[1] Thus the idea of an international police force indorsed by Congress in 1910, and the ideas advanced by President Taft in 1913,—that the powers of a court should be enforced by the agreement of all nations, and that there should be authority to compel a defendant nation "to answer to the complaint under the rules of law established for international purposes,"—became a commanding subject of public discussion in the United States. American interest in the proposition was powerfully reflected abroad. It received the careful attention of the Wilson administration, and the President openly aligned himself with the advocates of "some common" force behind international institutions by consenting to address the First Annual Assemblage of the League to Enforce Peace in Washington on May 27, 1916. On that occasion he spoke for the country, as follows:

I am sure that I speak the mind and wish of the people of America when I say that the United States is willing to become a partner in any feasible association of nations formed in order to realize these objects and make them secure against violation. . . .

I came only to avow a creed and give expression to the confidence I feel that the world is even now upon the eve of a great consummation, when some common force will be brought into existence which shall safeguard right as the first and most fundamental interest of all peoples and all governments, when coercion shall be summoned not to the service of political ambition or selfish hostility, but to the service of a common order, a common justice and a common peace.[2]

[1] Mr. Lowell was chairman and reporter of the committee on resolutions. The discussion and votes are in *League to Enforce Peace*, 9–10, 58–62.

[2] *Enforced Peace*, 162–163.

## CONGRESS DECLARES A POLICY, 1916.

While the President was speaking, there was pending in Congress a proposal destined to commit the United States to a policy entirely consistent with his words. As a result of a widespread public interest, the following provisions were included in the naval service appropriation act, approved by the President on August 29, 1916:

AN ACT MAKING APPROPRIATIONS FOR THE NAVAL SERVICE FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND SEVENTEEN, AND FOR OTHER PURPOSES.

*Increase of the Navy.*

. . . . . .

It is hereby declared to be the policy of the United States to adjust and settle its international disputes through mediation or arbitration, to the end that war may be honorably avoided. It looks with apprehension and disfavor upon a general increase of armament throughout the world, but it realizes that no single nation can disarm, and that without a common agreement upon the subject every considerable power must maintain a relative standing in military strength.

In view of the premises, the President is authorized and requested to invite, at an appropriate time, not later than the close of the war in Europe, all the great Governments of the world to send representatives to a conference which shall be charged with the duty of formulating a plan for a court of arbitration or other tribunal, to which disputed questions between nations shall be referred to adjudication and peaceful settlement, and to consider the question of disarmament and submit their recommendation to their respective Governments for approval. The President is hereby authorized to appoint nine citizens of the United States, who, in his judgment, shall be qualified for the mission by eminence in the law and by devotion to the cause of peace, to be representatives of the United States in such a conference. The President shall fix the compensation of said representatives, and such secretaries and other employees as may be needed. Two hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated and set aside and placed at the disposal of the President to carry into effect the provisions of this paragraph.

If at any time before the construction authorized by this Act shall have been contracted for there shall have been established, with the co-operation of the United States of America, an international tribunal or tribunals competent to secure peaceful determinations of

all international disputes, and which shall render unnecessary the maintenance of competitive armaments, then and in that case such naval expenditures as may be inconsistent with the engagements made in the establishment of such tribunal or tribunals may be suspended, when so ordered by the President of the United States.[1]

This portion of the act, like many other sections of limited legislation in our system of government, declares a permanent policy of the United States. It revives the idea of 1910 for a commission, but its incorporation in the naval appropriation act makes it clear that the policy of the United States as stated therein involves the use of force where necessary to realize the aspirations expressed in the declaration.

## THE SEQUEL.

The subsequent steps came in rapid succession, and are an important and familiar part of the contemporary history both of this country and of Europe.

In a letter to the belligerent nations on December 18, 1916, the President gave his official indorsement to the project of a league of nations "to insure peace and justice throughout the world."

In an address to the Senate on January 22, 1917, he went still further and outlined the kind of a league which the United States would be willing to enter. And in his address to Congress on April 2, 1917, the President urged that Congress "formally accept the status of belligerent which has been thrust upon it," and declared that "a steadfast concert for peace can never be maintained except by a partnership of democratic nations."

The declaration of war by joint resolution of the two houses of Congress became effective April 6, 1917.

In a note cabled to Russia on May 26, 1917, in view of the approaching visit of the American delegation to Russia, the President presented to the new democracy of the Old World the ideals which he had so forcibly been championing in the New World:

And then the free peoples of the world must draw together in some common covenant, some genuine and practical co-operation that will in effect combine their force to secure peace and justice in the dealings of nations with one another. The brotherhood of mankind must no longer be a fair but empty phrase; it must be given a structure of

[1] B. R. Tillman, Jr., *Navy Yearbook*, 483–484 (Sen. Doc. 555, 64th Cong., 2d Sess.).

force and reality. The nations must realize their common life and effect a workable partnership to secure that life against the aggressions of autocratic and self-pleasing power.

For these things we can afford to pour out blood and treasure. For these are the things we have always professed to desire, and unless we pour out blood and treasure now and succeed, we may never be able to unite or show conquering force again in the great cause of human liberty. The day has come to conquer or submit. If the forces of autocracy can divide us they will overcome us; if we stand together, victory is certain and the liberty which victory will secure. We can afford, then, to be generous, but we cannot afford, then or now, to be weak or omit any single guarantee of justice and security.

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Among the notable state papers from the pen of the President since that time is the reply to the peace proposal of the Pope, which bears the date of August 27, 1917, and is printed in full in the preceding pages.